

(717)787-1471

April 29, 1998

Re:***** (Indiana)

Dear *****:

This is in response to your letter to the Pennsylvania Department of Banking (the "Department"), seeking the Department's approval for***** , an Indiana state-chartered bank (with powers limited to trust services) ("Bank"), to act as a fiduciary in Pennsylvania, pursuant to section 106 of Pennsylvania's Banking Code of 1965 (the "Banking Code"), 7 P.S. § 106.

According to your letter, the Bank recently received approval from the Indiana Department of Financial Institutions to commence a trust business in Indiana. You state that the Bank intends to act as a fiduciary for an estate in Pennsylvania under the terms of the Last Will and Testament of *****.

Section 106 of the Banking Code provides that:

No corporation existing under the laws of a state other than this Commonwealth or national bank located in another state, except an interstate bank, may act in this Commonwealth as a fiduciary unless:

- (i) it shall be appointed fiduciary by will or other testamentary writing, by a deed of trust or by a court or registrar of wills of this Commonwealth or it shall be designated as fiduciary by the beneficiaries or by one or more other fiduciaries of the estate or trust pursuant to the terms of the instrument, or
- (ii) it shall be the successor by merger or consolidation to a corporation lawfully acting as fiduciary in this Commonwealth at the time of such merger or consolidation

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and unless the laws of such other state confer like powers on corporations existing under the laws of this Commonwealth. No corporation of another state or national bank located in another state authorized to act as a fiduciary pursuant to this subsection (b) shall be authorized to establish a place of business in this Commonwealth.

7 P.S. § 106(b).

Please be advised that the Department must receive the following documents in order to approve the appointment of a foreign fiduciary in Pennsylvania under section 106 of the Banking Code:

1. Certificate of Authority from the foreign fiduciary's primary regulator;
2. Appointment of Pennsylvania's Secretary of Banking for the purposes of service of process;
3. Reciprocity letter from the state where the bank is located indicating that a Pennsylvania banking institution may act as a foreign fiduciary in that state on terms substantially similar to those in Pennsylvania;
4. Proper appointment as foreign fiduciary consistent with section 106(b) of the Banking Code;
5. Copy of the trust document.

The Department is in receipt of: 1) a Certificate of Authority issued by the State of Indiana, Department of Financial Institutions authorizing the Bank to do business in the State of Indiana; 2) an executed Appointment of the Pennsylvania Secretary of Banking as Attorney for Service of Process; 3) reciprocity letter from the State of Indiana indicating that a Pennsylvania banking institution may act as a foreign fiduciary in that state on terms substantially similar to those in Pennsylvania; and 4) an executed copy of the Last Will and Testament of *****.

Please be advised that the Department hereby issues its conditional approval for the Bank to act as a foreign fiduciary in Pennsylvania, under the terms of the Last Will and Testament of *****
*****. Please note that the Department's approval herein pursuant to 106(b) of the Banking Code should not be construed as authorizing the establishment of an office in Pennsylvania by Bank.

The Department's analysis is based upon the facts and conditions as stated in this letter. Any change in the facts could result in a reversal of the Department's position. This letter states the Department's position regarding the issues discussed herein and may not be relied upon or construed as constituting legal advice.

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If you have any questions regarding this matter, do not hesitate to contact me.

Sincerely,